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May 8, 2014

VIA E-MAIL

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation Regarding the Rules and Regulations  
Implementing the Telephone Consumer Protection Act of 1991;  
CG Docket No. 02-278

Dear Ms. Dortch:

This letter is to provide notice that on May 5, 2014, David J. Kaminski, Partner at Carlson & Messer LLP, Sandy Lawrence, President of CMRE Financial Services, Inc., Tom Gavinski, Vice-President of I.C. System, Inc., Tina Hanson, Executive Vice-President of State Collection Service, and Eric Mock, President of Medical Business Bureau, LLC, met with staff members of the Federal Communications Commission, including Kurt Schroeder, Division Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau, Erin Garza, Legal Advisor, Officer of the Bureau Chief, Consumer & Governmental Affairs Bureau, and Kristi Lemoine, Attorney Advisor, Consumer Policy Division, Consumer & Governmental Affairs Bureau.

During this meeting, we discussed the Telephone Consumer Protection Act of 1991 ("TCPA"). Specifically, we discussed prior express consent under the TCPA and the FCC's January 4, 2008 Declaratory Ruling, *In re Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 23 FCC Rcd. 559 (F.C.C.2008) ("FCC's 2008 Ruling"), and its impact with respect to the collection of medical debt. We requested the FCC clarify that a healthcare provider to whom a medical debt is owed constitutes a "creditor" as that phrase is used in paragraph 9 of the FCC's 2008 Ruling.

The parties also discussed the scope of persons and entities deemed to have prior express consent in the healthcare context. We requested the FCC declare that if a consumer or patient voluntarily provides their cell phone number to a healthcare provider, this establishes prior express consent under the TCPA for all entities with whom the consumer's protected health information ("PHI") is shared in compliance with the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. No. 104-191, 110 Stat.1936 (1996). Relevant entities falling within the purview of such consent would include, but are not limited to, other healthcare providers, billing services, and collection agencies.

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We also requested the FCC declare that when a patient is incapacitated, the providing of a cell phone number on behalf of the incapacitated party, for example, by a spouse, parent, representative, agent, partner, or employer of a patient to any healthcare provider, constitutes express consent under the TCPA.

Last, the parties discussed paragraph 13 of the FCC's 2008 Ruling with respect to the definition of an "automatic telephone dialing system" ("ATDS"). We encouraged the FCC to clarify that when human intervention is required to initiate a call to a cell phone made through the use of automated dialing equipment, such call does not constitute a call made via an ATDS as defined by the TCPA.

In accordance with § 1.126(b) of the Commission's Rules, this notice will be electronically filed in the above-referenced Docket for inclusion in the public record.

Sincerely,

A handwritten signature in black ink that reads "David J. Kaminski". The signature is written in a cursive, flowing style.

David J. Kaminski  
Carlson & Messer LLP

DJK/pl